Supplement 80-665

IN THE UNITED STATES SUPREME COURT

WASHINGTON, D.C.

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SUPREME COURT, U.S.

JAMES E. PATTERSON,
APPELLANT

VS.

HANS J. SCHACHT, ET AL.,
APPELLEES

DIST. COURT NO. 79-106-N

APP. COURT NO. 80-8289

JAMES E. PATTERSON,
APPELLANT

VS.

OTIS J. ABERNATHY, U.S. DISTRICT COURT-NORTHERN DISTRICT OF GEORGIA, ET AL.,
APPELLEES

DIST. COURT NO. 80-1236-A

APP. COURT NO. 82-90

MOTION TO AMEND JURISDICTIONAL STATEMENT

THE APPELLANT RESPECTFULLY REQUEST THAT HE BE GRANTED LEAVE TO AMEND THE "CONCLUSIONS" OF HIS JURISDICTIONAL STATEMENT IN ACCORDANCE WITH SUPREME COURT RULE 22.6 BY ADDING THE REQUEST THAT THIS COURT FIND THAT THE TROUP COUNTY, BOARD OF EDUCATION, LAGRANGE, GEORGIA, DENIED HIM DUE PROCESS WHEN IT COMPLIED WITH GA. CODE ANN. # 32-662a(b), WHICH REQUIRES THAT A TENURED TEACHER ON THE PAYROLL PRIOR TO APRIL 15TH-EITHER- BE TENDERED A NEW "CONTRACT OF EMPLOYMENT" FOR THE ENSUING SCHOOL YEAR OR TERMINATED BY APRIL 15TH, AND THE - COURT SHOULD FINED THAT THE BOARD VOTED ON APRIL 12, 1976 TO COMPLY WITH THE LAW BY ADVISING THIS APPELLANT ON APRIL 13, 1976 THAT HIS "CONTRACT OF EMPLOYMENT" HAD BEEN TERMINATED, BUT THE COURT IS FURTHER MOVED TO FIND THAT APPELLANT SHOULD HAVE BEEN TERMINATED ONLY AFTER A DUE PROCESS HEARING. SEE, APPENDIX # 19 FOR EVIDENCE THAT APPELLANT WAS NOT AFFORDED A DUE PROCESS HEARING --- BEFORE--- HIS "CONTRACT OF EMPLOYMENT" WAS TERMINATED. WE HAD 30 YEARS SERVICE

THE APPELLANT COURTS HAVE RULED THAT : "PROCEDURAL DUE PROCESS REQUIRES THAT --- BEFORE --- ANY INDIVIDUAL IS DEPRIVED OF A SIGNIFICANT "PROPERTY INTEREST" THOUGH GOVERNMENTAL ACTION HE MUST BE ACCORDED "NOTICE" OF THE IMPENDING PROCEEDING AND THE OPPORTUNITY

TO BE HEARD AT A MEANINGFUL TIME --- PRIOR--- TO --- THE --- DE--- PRIVATION" U.S.C.A. CONST.AMEND.14-REMM V.LANDRIEU,(D.C.LA.1976) 418 F.SUPP.1222.

A PUBLIC SCHOOL TEACHER IN GEORGIA IS EMPLOYED VIA MEANS OF AN"EMPLOYMENT CONTRACT" AND A TEACHER WITHOUT A CONTRACT ON APRIL 16, 1976 ,OR ANY YEAR,IS A TEACHER WITHOUT A JOB FOR THE "ENSUING --- SCHOOL YEAR" SEE,GA.CODE ANN.# #32-662a(a),(b).

WHEN A LOCAL SCHOOL BOARD VOTES ON APRIL 12,1976 TO "FIRE" A TEACHER WITH 30 YEARS SERVICE WITH THAT SAME BOARD AND DENIES HIM THE HEARING WHICH HE REQUESTED PRIOR TO BEING TERMINATED THERE IS NO TIME IN THE FUTURE FOR THAT BOARD TO AFFORD HIM AN "OPPORTUNITY TO BE HEARD AT A MEANINGFUL TIME"BEFORE EITHER THAT SCHOOL BOARD OR THE BOARD'S AGENT,THE GA.PROFESSIONAL PRACTICES COMMISSION. SEE, APPENDIX NO.18 FOR EVIDENCE THAT WE REQUESTED IN WRITING ON APRIL 8,1976 A HEARING PRIOR TO THE BOARD'S VOTING ON APRIL 12,1976 TO - TERMINATE OUR "CONTRACT OF EMPLOYMENT FOR THE ENSUING SCHOOL YEAR"

SO,LOCAL SCHOOL BOARDS IN GEORGIA OR REQUIRED BY LAW TO EITHER TENDER "NEW CONTRACTS OF EMPLOYMENT FOR THE ENSUING SCHOOL YEAR"OR TO ADVISE ANY TEACHER THAT IS TO BE FIRED IN WRITING BY APRIL 15th - THAT HE/SHE WILL NOT BE REHIRED FOR THE ENSUING SCHOOL YEAR,AND IN THAT CASE DUE PROCESS HAS ALREADY BEEN DENIED WITH THE BOARD'S DECISION TO "NOT REHIRE" THAT DECISION CAN ONLY COME FOR A TENURED TEACHER --- AFTER--- HE/SHE HAS BEEN AFFORDED A "MEANINGFUL OPPOR--TUNITY TO BE HEARD"

THE FEDERAL APPELLATE COURTS HOLD THAT: "PRIVILEGES,LICENSES,CERTIFICATES,CONTRACTS,AND FRANCHISES QUALIFY AS A "PROPERTY INTEREST" FOR PURPOSES OF PROCEDURAL DUE PROCESS,BUT DUE PROCESS ONLY BECOMES REVELANT WHERE SUCH "PROPERTY" IS"DEPRIVED" (SIC). U.S.C.A.CONST. AMEND.14-WELLS FARGO ARMORED SERVICE CORP. V.GA.PUBLIC SERVICE COMMISSION,(C.A.GA. 1977) 547 F.2D 938.

WELL,YOUR HONORS,SINCE THIS PARTY HOLDS A PROFESSIONAL SOCIAL SCHOOL WORKER CERTIFICATE FROM BOTH THE GA.DEPT.OF EDUCATION AND AUBURN UNIVERSITY AND A "CONTRACT OF EMPLOYMENT"FOR 30 YEARS WITH THE TROUP COUNTY BD.OF EDUCATION,HE HAD VERY DEFINITE "PROPERTY INTERESTS" WHICH WERE SUPPOSED TO HAVE BEEN PROTECTED BY DUE PROCESS BEFORE HIS "CERTIFICATES" AND "CONTRACT"WERE RENDERED WORTHLESS.

WHEREFORE, HAVING DOCUMENT BY GA. LAW AND DUE PROCESS THAT WE WERE ENTITLED TO AN "OPPORTUNITY TO BE HEARD" "PRIOR TO DEPRIVATION" OF OUR "PROPERTY INTEREST" AND THAT WE REQUESTED IN WRITING A DUE PROCESS HEARING "PRIOR TO DEPRIVATION OF OUR PROPERTY INTEREST" WE NOW MOVE THIS COURT TO FIND THAT WE WERE DENIED DUE PROCESS BY THE -- TROUP COUNTY BOARD OF EDUCATION WHEN IT VOTED ON APRIL 12, 1976 TO "FIRE" US WITHOUT FIRST AFFORDING US A "NOTICE" HEARING.

APPELLANT RESPECTFULLY REQUESTS SUCH OTHER AND FURTHER RELIEF THAT THE COURT DEEMS TO BE APPROPRIATE.

RESPECTFULLY SUBMITTED,

James Patterson

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CERTIFICATE OF SERVICE

I, JAMES E. PATTERSON, HEREBY CERTIFY THAT I HAVE MAILED A COPY OF THE ATTACHED AMENDMENT TO OUR DOCKETED JURISDICTIONAL STATEMENT TO COUNSEL OF RECORD FOR THE APPELLEES WHO ARE AS FOLLOWS:

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DATED: 5-12-81.

James Patterson
JAMES E. PATTERSON

AUTHORITIES

"THE SUPREME COURT'S JURISDICTION UNDER 28 USC # 1252 DOES -- NOT DEPEND ON WHETHER THE LOWER COURT HAD JURISDICTION, SINCE AN -- APPEAL UNDER # 1252 BRINGS THE ENTIRE CASE FROM THE BEGINNING (ON MARCH 12,1976) BEFORE THE SUPREME COURT AND NOT ONLY THE CONSTITUTIONAL QUESTIONS." SEE, MCLUCAS V. DECHAMPLAIN (1975) 421 US 21,95 SCT 1365,43LE2D 699."

THEREFORE, STATUTE 28 USC # 1252 GIVES THIS COURT JURISDICTION TO REVIEW THIS ENTIRE FIVE YEAR OLD PROCEEDING. THE FACT SHOULD BE STRESSED THAT ALL OF THE UNPLEASANT EXPERIENCES WHICH WE HAVE DOCUMENTED FOR THIS COURT REVELANT TO REPEATED DENIAL OF DUE PROCESS BY THE COURTS BELOW WAS THE RESULTS OF THE TROUP COUNTY BOARD OF EDUCATION VOTING ON APRIL 12,1976 TO DEPRIVE US OF OUR "PROPERTY INTEREST" WITHOUT FIRST AFFORDING US A DUE PROCESS HEARING.

PLEASE BE SURE THAT THIS COURT UNDERSTAND THAT IN GEORGIA THE LOCAL SCHOOL BOARDS HAVE THE DEADLINE OF APRIL 15 BY WHICH TO TERMINATE A PEACHER ALREADY ON THE PAYROLL OR MUST TENDERED THAT TEACHER A NEW "CONTRACT OF EMPLOYMENT" FOR THE NEXT SCHOOL YEAR.

SO, THE DEADLINE IN GEORGIA FOR A BOARD TO MAKE A DETERMINATION REVELANT TO EMPLOYMENT FOR "NEXT SCHOOL YEAR" FOR TEACHERS ON THE PAYROLL IS APRIL 15TH AND A TENURED TEACHER CANNOT LEGALLY BE TERMINATED ON APRIL 12th IN THE ABSENCE OF A DUE PROCESS HEARING, BUT THIS 30 YEAR VETERAN TEACHER WAS SO TERMINATED ON APRIL 12,1976.

for, and powers and duties of superintendents and members of boards of education of the several local units of administration shall be as prescribed by law: Provided, however, that such superintendents and members of local boards of education shall comply with, execute and enforce the provisions of this Chapter and other school laws, and provisions of rules, regulations, policies and standards adopted by the State Board of Education pursuant thereto, in order to render the respective local units of administration eligible to receive State funds under the provisions of this Chapter.

(Acts 1974, pp. 1045, 1090.)

32-662a Local units of school administration; employment of personnel

(a) All teachers, principals, other certificated professional personnel, and all other school personnel of local units of administration shall be employed by local boards of education on the recommendation of the superintendent of schools of the local unit. Minimum qualifications for employment of all school personnel may be prescribed by the State Board of Education unless otherwise provided by law. Employment contracts of teachers, principals, other certificated professional personnel shall be in writing and shall be signed in duplicate by such personnel on their own behalf and by the local superintendent of schools on behalf of the local board of education.

(b) Any other provisions of this Chapter or any other laws to the contrary notwithstanding, local boards of education shall tender a new contract for the ensuing school year to every teacher on the payroll of the local school system at the beginning of the preceding school year, except teachers who have resigned or who have been terminated, by April 15 of each year or notify any such teacher that they are not going to rehire him for the ensuing school year. The notification shall be in writing.

(c) Any other provisions of this Chapter or any other laws to the contrary notwithstanding, no local board of education shall employ any person as a teacher who has been discharged from the armed forces of the United States with a dishonorable discharge as a result of desertion or any person who has fled or removed himself from the United States for the purpose of avoiding or evading military service in the armed forces of the United States excluding those who have been fully pardoned.

(Acts 1974, pp. 1045, 1091; 1975, p. 1537.)

Editorial Note
Acts 1975, p. 1537, added subsection (c).

32-663a Pupils attending school in adjacent local units of administration; allotment of State funds; contracts between local units

Notwithstanding the foregoing provisions of this Chapter and other school laws, the State Board of Education is hereby authorized to provide, by regulation, a procedure and manner whereby a pupil shall, for such

compelling reasons and circumstances as may be defined and specified by the State Board, be permitted to attend and be included as an enrolled pupil in average daily attendance in the public schools of a local unit of administration immediately adjacent to the local unit of administration wherein the pupil resides for the purpose of allotting State funds under the provisions of this Chapter, notwithstanding absence of an agreement between the two adjacent local units and a refusal by the board of education of the local unit wherein the pupil resides to voluntarily approve such transfer of a pupil to the public schools of the adjacent local unit: Provided, however, that the board of education of the adjacent local unit is willing to receive and permit such pupil to enroll in and attend the public schools of such local unit. The State Board shall adopt such rules, regulations and policies as may be necessary for implementation of this section. Grant or refusal of permission for pupils to attend such schools, for the purpose of permitting State funds to follow such pupils, shall be entirely discretionary with the State Board and shall, in the absence of a clear abuse of discretion by the board, be final and conclusive. Local units of administration may contract with each other for the care, education and transportation of pupils and for such other activities as they may be authorized by law to perform.

(Acts 1974, pp. 1045, 1091.)

32-664a Voter registration; excused absences

Each student in the public schools of the State of Georgia, upon attaining the age of 18 years, shall be apprised of his right to register as an elector and vote in elections upon attaining the age of 18 years. The State Board of Education shall promulgate rules and regulations to carry out the provisions of this section. An excused absence of a student, as determined by the local unit of administration, not to exceed one school day, shall not be counted against any local unit of administration in ascertaining "average daily attendance."

(Acts 1974, pp. 1045, 1092.)

32-664a.1 Pledge of Allegiance to the flag

Each student in the public schools of the State of Georgia shall be afforded the opportunity to recite the Pledge of Allegiance to the flag of the United States of America during each school day. It shall be the duty of each local board of education to establish a policy setting the time and manner for recitation of the Pledge of Allegiance. Said policy shall be established in writing and shall be distributed to each teacher within the school.

(Acts 1976, p. 271.)

32-665a Financial procedures established

For the purpose of promoting economy and efficiency in the financial operation of local school systems, keeping all school expenditures within estimated receipts and balances, and to facilitate financial review audits of local school system operations, and to determine conformance of school